

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 23547 of 2005

Between:

Ambati Srinivasulu

..... PETITIONER

AND

The District Collector, Nellore and 3 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the order of the 1st respondent vide Rc.E.503/2005, dated 03.10.2005 dismissing the revision filed by the petitioner against the orders of the 2nd respondent dated 16.08.2005, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner is a fair price shop dealer of Chavata Puthedu village, Dagadarthi Mandal, Nellore District. A show cause notice was issued to the petitioner for certain irregularities committed by him in distributing SGRY rice to the beneficiaries and in not maintaining the registers for supply of PDS rice and SGRY rice separately and charge was also framed for variation of accounts on physical verification and with reference to books i.e. variation of PDS rice for 210 kgs and SGRY rice for 4056 kgs. The explanation was submitted by the petitioner stating that he has received the rice from MLS point towards PDS, SGRY and AAY, and the stocks of rice supplied on all three heads is one and the same variety, as such, the stocks are clubbed together and distributed. It is further explained that it is not possible to keep the rice programme wise as the respective stocks are brought together and supplied as a single lot. The said explanation was found not convinced and accordingly, his authorization as fair price shop dealer was cancelled.

It is pertinent to note that proceedings under Section 6-A of the Essential Commodities were also initiated against the petitioner for variation of stocks of 10 kgs. PDS rice and 378 litres of PDS blue K.Oil and framed charges for diverting the SGRY rice to black market for his personal gains violating Clause (12) and (13) of authorization issued under APSC (RDCS) Order, 2001, and for not maintaining F.P.Shop accounts properly and correctly, violating the clause 4(i) (ii) and (11) of Authorization issued under APSC (RDCS) Order, 2001. The

2nd respondent by his proceedings dated 19.03.2005 found that there is no evidence

to show that SGRY rice was diverted to the black market and on scrutiny of the fair price shop accounts, it is noticed that the petitioner made double entries and error in totaling caused an excess of 67 kgs. in SGRY distribution register and there is no variation in SGRY stocks and accounts, and therefore, a fine of Rs.1,000/- was imposed for improper maintenance of fair price shop accounts and the petitioner is warned to be careful in maintaining of fair price shop, and accordingly, the proceedings under Section 6-A of the Essential Commodities Act have been dropped.

Against the order of the 3rd respondent in cancelling the dealership, the petitioner has filed an appeal before the 2nd respondent and the 2nd respondent by proceedings dated 16.08.2005, dismissed the appeal while confirming the order of the 3rd respondent, on the ground that the petitioner has not maintained the accounts properly, which is obligatory on his part as per the conditions of the Authorization.

Aggrieved by the order of the 2nd respondent dated 16.08.2005, the petitioner filed revision before the 1st respondent and the

1st respondent, by his proceedings dated 03.10.2005, dismissed the revision, holding that according to conditions 4(i) (ii) of Authorization issued to the Fair Price Shop Dealer, the petitioner failed to maintain the records that may be prescribed from time to time by the concerned authorities.

The learned counsel for the petitioner contended that since the proceedings under Section 6-A of the Essential Commodities Act have been dropped, imposing penalty of Rs.1,000/- for improper maintenance of accounts, which is not a punishment, for one of the irregularity, it is not open for the authorities to cancel the fair price shop dealership of the petitioner.

Proceedings under Section 6-A of Essential Commodities Act are different and distinct from that of proceedings from cancelling or suspending the dealership under the Andhra Pradesh State Public Distribution System Control Order, 2001. Cancellation of authorization is for violation of Conditions 4(i) (ii) of the Authorization issued to the petitioner's Fair Price Shop dealership. In the view of the matter, I do not see any illegalities or infirmities in dismissing the revision of the petitioner by the 1st respondent. Hence the writ petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

V.ESWARAIAH,J

Dated: 02.11.2005

Dsr

Note:

Issue CC in 3 days

B/o

Dsr